



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,367	11/25/2003	Samuel M. Shaolian	ENDOLOG.023CP1	4603
20995 7590 09/14/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
SEVERSON, RYAN J				
ART UNIT		PAPER NUMBER		
3731				
NOTIFICATION DATE		DELIVERY MODE		
09/14/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
efiling@kmob.com
eOAPilot@kmob.com

Office Action Summary

Application No.

10/722,367

Applicant(s)

SHAOLIAN ET AL.

Examiner

RYAN J. SEVERSON

Art Unit

3731

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Examiner notes here that this action is a supplemental final rejection that replaces the final rejection mailed 5/27/2010. Applicants representative brought to the Examiner's attention the fact that a reference was relied upon in that rejection that does not qualify as prior art. Therefore, the previous rejection is vacated in its entirety. The time period for response has been reset to begin from the mailing date of this action. Examiner apologizes for any inconvenience this may have caused.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-15 and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quiachon et al. (5,769,885) in view of Summers (5,607,445) and Trudell et al. (5,158,545).** Quiachon et al. disclose a deployment system for a bifurcated graft where the main vessel portion is oriented distal relative to the branch vessel portions (see figures 7 and 30). The deployment system further includes an outer sheath (160) and an inner core (54) with a distal tip (80). Branch vessel restraints (132 and 202) hold the branch vessel portions and a main vessel restraint (93) holds the main vessel. An RO marker (166) is disposed on the outer sheath.

4. However, Quiachon et al. do not disclose the entire prosthesis is support by a stent. Attention is drawn to Summers, who teaches a stent that can have a graft over its entire length (see column 11, lines 33-36) to provide support to a continuous length of diseased vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have supported the entire graft of Quiachon et al. with stents, instead of just the ends, to provide support for the vessel over the entire length of the prosthesis.

5. Further, the combination of Quiachon et al. and Summers fails to disclose the restraints cover the entire graft portions and are peelable with a release element. Attention is drawn to Trudell et al. who teach the use of restraints over entire graft portions (see figure 2) and a peelable sheath (18) with a release element (24, see figure 1) to allow the sheath to be peeled away from the graft. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the restraints of the device of Quiachon et al. in view of Summers peelable and covering the entire length of the graft, as taught by Trudell et al., to allow the restraints to be removed more easily. Having the entire length of the graft portions of the combination of Quiachon et al. and Summers covered with restraints is desirable because the entire lengths have stents disposed therein (as set forth above), which would need to be restrained to prevent premature expansion. The restraint of Trudell et al. is configured to tear upon being proximally retracted (see column 5, lines 13-15). Although only one restraint in Trudell et al. is shown as being peelable, Examiner

contends it would have been obvious to make any and all of the restraints of Quiachon et al. peelable.

6. Regarding claim 33, the branch release element of Trudell et al. is at the proximal end of the restraint (see figure 1).
7. Regarding new claims 35-37, the peelable cover of Trudell et al. has a start point and a perforated line (28).

Response to Arguments

8. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. SEVERSON whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J Severson/
Examiner, Art Unit 3731
9/9/10

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
9/9/10